

The Salisbury Planning Board held its regular meeting on Tuesday, April 12, 2005 in the City Council Chamber of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Len Clark, Bryan Duncan, Lou Manning, Brian Miller, Sandy Reitz, Valarie Stewart, Albert Stout, Bryce Ulrich, Price Wagoner, and Charlie Walters

ABSENT: Diane Young

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, Joe Morris, David Phillips, and Lynn Raker

The meeting was preceded with a reception for new members from 3:30 until 4:00 p.m. Chairman **Brian Miller** called the meeting to order and Charlie Walters followed with an opening prayer. The minutes of the March 22, 2005 meeting were approved as published.

This meeting was the first Planning Board meeting to be recorded by Jason Parks for Access 16 television.

SWEARING IN OF NEW MEMBERS

Brian Miller introduced the members of the Planning Board. Myra Heard, City Clerk, led the new and reappointed members in an oath of office.

ZONING MAP AMENDMENTS

Brian Miller read the "Explanation of a Courtesy Hearing."

Preston Mitchell, Senior Planner, made a staff presentation for the following:

Z-05S-05 Glenn Lee Flaska, petitioner & property owner
From: B-1 with Group Development Overlay
To: B-4-S with Group Development Overlay
Location: 1815 East Innes Street

The "S" was added to the zoning case ID.

Existing General Development Overlay (GDA) – owner is not requesting to amend the overlay, but any development on this site requires Group Development approval.

Existing Zoning:

B-1 District – The Office Institutional district is intended primarily for the location of businesses of a service type that do not maintain a stock of goods for sale or retail trade.

Proposed Zoning:

B-4-S District – The Special Highway Business district is identical to the B-4 district, except that a Special Use (S-District) Permit is required, which may allow one or more permitted uses that are permitted by right in the B-4 district. City Council may place additional provisions or restrictions on the S-District Permit.

Vision 2020 Plan – “Newer Commercial Areas”

“...the corridor between I-85 & downtown became a classic example of an ‘ugly, congested commercial strip.’” These situations led to the adoption of the East Innes Street Overlay. It became important to stop continuous “stripping” of Innes Street and instead create Commercial Nodes at specified intersections and neighborhood centers or edges.

Vision 2020 – “Newer, Existing Neighborhoods”

This portion of Innes Street is primarily residential and low-intensity commercial and office development.

Policy N-11: “Architecturally compatible, residentially-scaled office and institutional development may be permitted to locate along sides of a neighborhood.

Planning areas: This policy may be applied to conversion of pre-existing residential properties located along major streets where...homes have become unsuitable for residential occupancy.”

Staff recommendation

Staff recommends approval of the B-4-S (Special Highway Business) district with the following conditions:

- That all uses allowed by right in the cumulative B-1 district remain allowed by right in addition to the use of “palmist, tarot card reader, or psychic advisor”.
- Any / all development associated with this site is to be conducted under the B-1 district regulations & requirements.

Those speaking in favor:

D. Todd Paris, Attorney, 113-A East Council Street, speaking on behalf of Mrs. Dora Dalton. Mr. Paris stated that this is the third time that they have come before Planning Board. This request is a small change; enough to allow her to do her business. A mental health facility, a dentist office, and the Social Security Office are in the immediate vicinity of this property. Two residents are behind the property. This property requesting the rezoning is somewhat landlocked by other buildings that have gone commercial. There will be no visual change to the property that the residents behind it will notice. The only change will be a sign in the front.

Mrs. Dalton is a spiritual counselor; it is interesting and to some it is difficult to understand. She is not a tarot card reader or a palm reader. She is a Christian and uses prayer.

Mrs. Dalton, 1815 East Innes Street, stressed that she lives like everyone else. She has a normal, healthy family environment and she takes good care of her property. Her previous business was located at 2910 South Main Street for four and one-half years. She never had any problems before and doesn't anticipate any now.

Dr. Ted James, 1545 Earnhardt Road, operating James Animal Hospital for about 46 years. Mrs. Dalton operated her business next door to his for the past four and one-half years. He never received a complaint; she kept her property in good condition. She is very professional in her business practices. She had to move because he sold his property.

Those speaking against:

Deana Moore, 210 Fairview Street, is a long term resident – 28 years. Neighbors have had many concerns with this rezoning. This zoning change is being requested to accommodate a renter. Should the tenant leave, they have no guarantees to the standards subsequent tenants would have in their profession, leaving the neighborhood in a battle to maintain its safety and family-oriented character. Even with limitations to a specific type of business they have no assurance that the present tenant would remain.

The futures of the families, homes and investments would be affected for years to come. The neighborhood would continue to be affected long after this business is gone due to the irreversible nature of this rezoning. They believe, too, that this rezoning would result in an increase in traffic and crime.

She stated that they do not oppose Mrs. Dalton, but emphatically object to the altering of their family-friendly neighborhood and its future. They strongly oppose the proposed zone change and respectfully ask the Planning Board not to support rezoning the neighborhood.

Billy Woodie, 1903 East Innes Street, presented a petition from the community.

“We, the undersigned strenuously object to the possible rezoning of our neighborhood. If this were for something that would truly enhance or improve the Eastern Gateway to Salisbury, consideration might be more favorable. Rezoning for such business in such a stable, long-standing community would produce no benefit to local residents. Currently, we have a very quiet neighborhood with an extremely low incidence of calls to law enforcement officials (may be verified through SPD & Sheriff’s office).

The proposed rezoning would be a disastrous personal detriment to our homes. We have nothing against the renter (not actual homeowner) involved with her business as a spiritual advisor. The real seriousness is that once the rezoning is done and this renter has moved on, the damage will have opened ‘Pandora’s box’ for others.”

Michael Oney, pastor and chaplain at the Rowan County jail. He lives at 2513 Wedgewood Drive. He has great concerns about the business. For over 28 years of ministry he has dealt with people who have had problems after going to a spiritual advisor. He feels that telling someone’s future is simply speculation; no one knows but God. He fears that an individual could become dependent upon her for direction in life. He doesn’t know her personally, but he has known another spiritual advisor that took someone for a lot of money. He is interested in getting a background check. Christians should not be involved with fortunetellers.

Barbara Thomas, 2105 East Innes Street, is concerned about one individual’s rights infringing on the rights of others. Majority rules and a majority is in attendance of this meeting.

Cathy Painter, 520 Morrison Avenue, has property adjoining the rear of the Dalton's residence. They have lived there approximately 30 years and are highly opposed to the zoning change on the basis of what it could bring. This change cannot be good. Mrs. Dalton moved to this location knowing that this property did not have proper zoning for her business.

Mr. Miller asked for all in favor to stand – three persons stood.

Mr. Miller asked for all opposed to stand – 40 persons stood.

Board Discussion

Mr. Mitchell clarified that this use could not exist as a home occupation. No law was broken by the petitioner moving in.

Mr. Miller stressed that this is a zoning issue and reminded the Board to keep comments directed to the zoning issue.

Lou Manning could not see that this would infringe on the neighborhood because of the buffer of other offices in the immediate area. The B-4S is not allowing any other additional uses to the B-1 except for the "palmist, tarot card readers and psychic advisors." That should alleviate concerns about what could come in the future.

Sandy Reitz said if issued a Special Use Permit, it runs with the property. Mr. Mitchell explained that this permit is a little different than the general zone district SUP the Board is accustomed to. Under the Special District there are two actions the Council will take:

1. Act to change the zoning map.
2. Act to adopt an "S" district permit. This is directly attached to the zoning.

Len Clark recommended complete visual separation from the neighborhood. The commercial use of the property will trigger the landscape requirement of a 15-foot visual separation. This is not a rezoning from residential to business; rather, adding a permitted use to the current B-1 zoning.

Valarie Stewart confirmed that if a dental or medical office were operating in this location, we would not be here. It would have to be viewed by development services to meeting parking and landscaping requirements.

Lou Manning said if something disagreeable transpires on the property the permit could be revoked by City Council. He felt the neighborhood was well protected.

Mr. Manning made a motion to recommend approval of Z-05S-05 to City Council with staff recommendations. The motion was seconded and ten members voted AYE. Mark Beymer voted against the recommendation. (10-1)

Mr. Mitchell explained the petition process. Twenty percent of the property owners within 100 feet of the property must sign the petition and submit it to the City Clerk's office. They must fill out a form by Friday. When this is accepted, City Council's must meet a 4/5 vote. This case will come to City Council on April 19.

GROUP DEVELOPMENT SITE PLANS

David Phillips, Zoning Administrator, made all of the staff presentations for the following:

1. **G-19-04** Laurels of Salisbury, 215 Lash Drive, Tax Map 331, Parcel 215, Zoning M-1

Mr. Michael Healy of Maddox NBD, Inc. resubmitted the application for the construction of additions to include 5,360 square feet to the existing nursing home facility located at 215 Lash Drive. All zoning criteria have been met. The Technical Review Committee recommends approval of the application, as submitted.

Albert Stout made a motion to recommend approval of G-19-04. **Lou Manning** seconded the motion with all members voting AYE. (11-0)

2. **G-02-05** Walgreen's, 705 Jake Alexander Boulevard West, Tax Map 061, Parcel 104, Zoning B-6 – Pulled from the agenda.

3. **G-04-05** City of Salisbury Fire Department Station 54, 2325 Statesville Boulevard, Tax Map 330, Parcel 144, Zoning B-7

Deb Young of the City of Salisbury submitted the application for the construction of a 5,740 square-foot, four-bay fire station and a 1,960 square-foot, modular housing unit to be located at 2325 Statesville Boulevard. All zoning criteria have been met. The Technical Review Committee recommends approval of the application, as submitted.

They are working with the North Carolina Department of Transportation (NCDOT) to provide a cut-through in a future median and a widening of Statesville Boulevard to accommodate fire trucks. The front landscaping will be set back for better visibility.

Mr. Miller explained to new members that the Technical Review Committee (TRC) is a committee of City staff from various departments that reviews the plans prior to Planning Board meetings.

Mr. Manning made a motion to recommend approval of G-04-05. **Sandy Reitz** seconded the motion with all members voting AYE. (11-0)

4. **G-11-04** First National Bank (Rowan Savings Bank), 1938 Jake Alexander Boulevard, West, Tax map 333, Parcels 002, 009, and 009-1, Zoning BRT, LOI/w GDA

Mr. William Burgin, of Ramsay, Burgin, Smith Architects, Inc., resubmitted the application for the construction of a 9,860 square-foot banking facility to be located at 1938 Jake Alexander Boulevard, West. All zoning criteria have been met. The Technical Review Committee recommends approval of the application, as submitted.

They have acquired more property, so it is an expanded site. It will be developed in two phases; the second phase will be submitted in the future.

There was a need for an alternate method of compliance on landscaping due to the fact that they do not meet the width of a C-1 yard. They had sufficient number of points.

There are concerns about blocking an existing alley. The property owner is hoping to receive a petition to close the alley.

Sidewalks are included as they were in the original plans.

Staff is recommending approval of the site plan with one contingency; the future of the alley must be resolved by either a NC DOT recommendation or a petition to have it closed.

Lou Manning made a motion to approve G-11-04 contingent on a NC DOT driveway permit approval. The motion was seconded with all members voting AYE. (11-0)

5. **G-05-05** Walgreen's, 1505 East Innes Street, Tax Map 059, Parcels 100, 067-01, 065, & 103, Zoning B-6 with G-EI

Mr. Don Gibbs, of Greenhorne & Omara, Inc., submitted the application for the construction of a 14, 820 square-foot commercial retail building to be located at 1505 East Innes Street. All zoning criteria have been met. The Technical Review Committee recommends approval of the application, as submitted.

There are three contingencies:

(1) The closing of Cox Lane by City Council, (2) The evaluation of the Faith Road driveway by NC DOT, (3) 40% of their wall must be transparent glass. (The third item could be appealed to the Zoning Board of Adjustment the second Monday in May. The glass issue is not in the jurisdiction of either the Planning Board or City Council.)

This property must comply with the East Innes Street Gateway overlay. This is the third building to be built in this area since adopting the East Innes Street Gateway overlay. Rack Room Shoes and Starbucks are the other two.

Staff has approved alternate methods of compliance for the parking. A wrought iron and brick wall has been approved for screening. There will be cedar screening around the dumpster and anything mechanical. They are providing sidewalk connectivity and will extend any sidewalk that NC DOT does not install around the property.

Steven Austin, partner with Kelly-Austin properties spoke on behalf of Walgreen's. The two partners were in attendance with their engineer, Don Gibbs. Mr. Austin explained that Walgreen's had a prototype interior layout for their stores. This store uses their largest layout. Spandrel glass is being discussed for the lower half of the windows, instead of transparent glass, due to the use of shelving displays on the interior of the store. Making it opaque would be more attractive than seeing the rear of the shelving.

Jay Dees, Ketner & Dees, 121 East Kerr Street, commented that he had “gone through” the East Innes Street Gateway Plan with Rack Room Shoes. He challenged the Board to bring the buildings up to the street. He felt the parking should be re-evaluated.

Lou Manning thought the parking situation was unique due to the position of the lot on the corner of a major intersection. He thought splitting the parking was an attractive way to handle it.

Dan Mikkelsen, City Engineer, said that in order to use an alternate method of compliance there has to be something unique about the site or unique about the conditions that causes hardship. In this case, this is one of three lots in the Gateway that are irregular in shape. He discussed the visual prominence of the property in relation to the way the streets come together. Staff believes they meet the intent of the code.

Sandy Reitz thought that staff had some lead way in alternate methods of compliance in relation to the East Innes Street Gateway.

Brian Miller liked the approach that staff took with the design of the parking and the placement of the building.

Len Clark supports not using transparent glass on the lower part of the building.

Lou Manning made a motion to recommend approval of G-05-05 as submitted, with the conditions listed. **Mark Beymer** seconded the motion with all members voting AYE. (11-0)

Mr. Miller agreed that the transparent glass may not be appropriate in this case. He thanked Mr. Austin for choosing to build in the Gateway District and complimented the building.

6. **G-04-68** Rowan Cabarrus Community College, 1333 Jake Alexander Boulevard South, Tax Map, 060, Parcel 072, Zoning CU

Mr. Arnold L. Miller, of A. L. Miller Construction, Inc., submitted the application for the construction of a 3,000 square-foot addition of a mechanical storage building to be located at 1333 Jake Alexander Boulevard South. All zoning criteria have been met. The Technical Review Committee recommends approval of the application, as submitted.

A motion was made to remove Dr. Mark Beymer from the Board for this case since he is employed by Rowan Cabarrus Community College. Dr. Beymer sat in the audience for this case.

Sandy Reitz made a motion to recommend approval of G-04-68. Albert Stout seconded the motion with all members voting AYE.

Len Clark made a motion to bring Mark Beymer back to the Board. Sandy Reitz seconded the motion with all members voting AYE.

**G-06-05 Rowan County Airport
3670 Airport Loop Road
Tax Map 470, Parcel 001, Zoning M-1**

Mr. Ken Deal submitted the application for the construction of three, 10-unit T-Hanger (two @ 51' x 231' and one @ 60' x 264') to be located on the existing tie down area with a total of 27,621 square feet. The TRC recommends approval of the application, as submitted.

Sandy Reitz made a motion to recommend approval as presented. The motion was seconded with all members voting AYE. (11-0)

COMMITTEE SCHEDULING

City Council initiated a Sign Ordinance Committee for Downtown Signage. Two Planning Board members will join that committee - Len Clark and Bryce Ulrich.

Committee appointments for Planning Board will be assigned at the next meeting on April 26.

North Main Small Area Study continues to prepare for a neighborhood meeting. Mr. Jeff Smith will need to be replaced on that committee.

OTHER BOARD BUSINESS

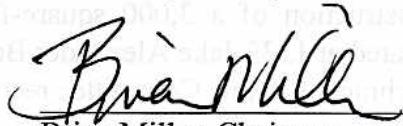
Chairman

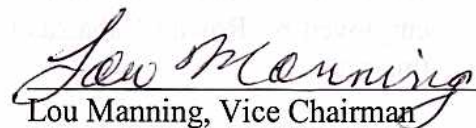
This is a great new Planning Board. Mr. Miller thanked the new Board members for agreeing to serve and hoped it would be a rewarding experience for them.

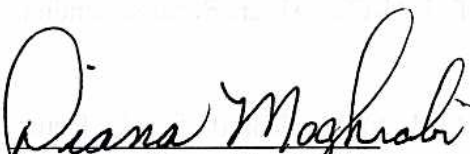
Staff

Preston Mitchell introduced the staff.

There being no further business to come before the Board, the meeting was adjourned.


Brian Miller, Chairman


Lou Manning, Vice Chairman


Secretary, Diana Moghrabi